Does this comparison with last year's issue indicate that the editors are placing more emphasis upon those features which one usually finds in a year book or other periodic compendium of useful data and slightly less emphasis upon the publishing of leading articles which are permanent contributions to scholarship in international law? The reviewer sincerely hopes that no such shift of emphasis is intended. The British Year Book has an assured future in any event. But it will be really indispensable everywhere if there is an unqualified adherence to the purpose, announced in last year's Introduction, of providing scope for "well-informed and careful contributions to the science of international law, wherein the fruits of research can be applied to the problems of the day."

EDWIN D. DICKINSON.

THE MODERN LEGAL PHILOSOPHY SERIES. Edited by a Committee of the Association of American Law Schools. New York: The Macmillan Co. 1921.

VOL. III. COMPARATIVE LEGAL PHILOSOPHY. By Luigi Miraglia. Translated by John Lisle. Pp. xl, 793.

VOL. VII. MODERN FRENCH LEGAL PHILOSOPHY. By A. Fouillée, J. Charmont, L. Duguit, and R. Demogue. Translated by Mrs. Franklin W. Scott and Joseph W. Chamberlain. Pp. lxvi, 578.

VOL. IX. THE SCIENCE OF LEGAL METHOD. By various authors. Translated by Ernest Bruncken and Layton B. Register. Pp. lxxxvi, 593.

VOL. X. THE FORMAL BASES OF LAW. By Giorgio Del Vecchio. Translated by John Lisle. Pp. lvii, 412.

VOL. XII. THE PHILOSOPHY OF LAW. By Josef Kohler. Translated by Adalbert Albrecht. Pp. xliv, 390.

The appearance of these volumes with the Macmillan imprint upon them leads us to hope for the issuance in the near future of the other numbers of this valuable series. Volume XIII, PHILOSOPHY IN THE DEVELOPMENT OF LAW, is in press and will probably be published before the end of the year, and the subject matter of Volume XI, THE SCIENTIFIC BASIS OF FUNDAMENTAL LEGAL INSTITUTIONS, is already provided for, so that this volume also may be expected very soon. Volume III and Volume X of the above list have already been reviewed in this journal. 10 MICH. L. REV. 663 and 13 MICH. L. REV. 713, and the basic argument of Volume IX and to a less degree of Volume XII has been incorporated in an article on "THE SOCIOLOGICAL INTERPRETATION OF LAW," in 16 MICH. L. REV. 599-616.

Volume VII, MODERN FRENCH LEGAL PHILOSOPHY, appeared in the midst of the Great War when the minds of most of us were so occupied with the insistent practical problems of the time that we could bestow but little thought on philosophic concepts. Perhaps the most interesting contribution of the French School to modern legal philosophic doctrine is found in the discussion of Solidarism. This appears to be a twentieth century philosophic concept developed by the younger French jurists as a French counterpart of the sociological theories of Stammler, Kohler, and other modern Teutonic

theorists. There is apparently no mention of it in the present volume by Fouillée, who is a representative of the late nineteenth century French legal philosophy, but it is discussed at considerable length by the younger French jurists, selections from whose works are found in this volume. The word seems to be borrowed from the Roman concept of the *obligatio in solidum*, though the modern doctrine has but a shadowy connection with the classical concept.

By the Roman jurists the obligation *in solidum* is contrasted with the correal obligation. Some modern authorities deny that there is any distinction between correality and solidarity, maintaining that the Romans recognized only one form of joint liability, namely, the correal type. The distinction between them, if any exists, seems to lie in the fact that the relationship between the obligors and obligees is a more intimate or at least a more intricate one in the solidary obligation than that in the correal obligation. The type of correal obligation is that arising from joint contract, the type of solidary obligation is that arising from joint delict. This is similar to our distinction between a joint and a joint and several liability. As a consequence of this a solidary obligation can be discharged only by performance or something equivalent to performance while the correal obligation may be extinguished by a purely formal discharge, as by *acceptilatio* or by *litis contestatio*. Furthermore, if one of the joint obligees satisfies the whole debt, in case of solidarity he may exact contributions from his co-obligees.

The greater intimacy or intricacy of the solidary relation seems to be the characteristic that has been seized upon by the French solidarists to express the concept of union and interdependence among men. Charmont speaks of solidarity as a Christian idea (Cf. Vol. VII, M. L. P. S., p. 84 *et passim*), "According to St. Paul we are all members of one body." It is a Catholic idea, "exemplified in the Communion of Saints." It is an idea borrowed from science, "an idea that serves to characterize life." It is an economic idea, "each man lives by the labor of others, and in turn labors for others." Attempts have even been made to carry the idea of solidarity into the domain of ethics. Charmont attributes the origin of the concept to Leon Bourgeois, who produced his "La Solidarité" in 1897, which made solidarity "the moral viaticum of a great party which was to draw from that idea a new store of idealism." This may seem to a legalist somewhat nebulous, but Charmont thinks its "suggestion of vagueness makes it a felicitous substitute for other words too hackneyed or too restricted in meaning to be effective." The concept is brought within the horizon of jurists as ministers of justice by the statement of Boutroux that the "solidarity which we desire to establish is such as will conform to the idea of what is just and will make the accomplishment of justice possible." It is said to be an intermediary thesis between socialism and individualism, reacting against the errors of individualism but investing the individual with a social significance, attaching him to his group and making him an integral part of it. This group, however, is "not an entity, its value is no more than that of its constituent members." Society is then not a unit entity set over against the

individuals composing it and having rights superior to all individuals—an idea which leads so easily to the Teutonic concept of the super-state which can do no wrong—but is a composite entity like our common law concept of a partnership, related most intimately to the individuals by reciprocal ties, but having no existence apart from them. Solidarism thus stops short of "integral socialism, at any rate of unified and revolutionary socialism." Finally, it advances the idea of justice by reaching out into the realm of charity. Though vague, it is for that very reason more supple, and as being at bottom a sentiment, a belief, an aspiration, it is akin to other philosophies of law.

Duguit also stresses the organic unity of society and the individual (Cf. Volume VII, M. L. P. S., Chap. IX, *et passim*). "The collective interest is merely the sum of all individual interests"; the better the latter are protected the better the former is conserved. But nevertheless "we see no trace of a collective will, we see men who have identical thoughts, identical desires * * * but it is always individuals who think and who will; the pretended social ego is nowhere to be found." On the basis of social solidarity Duguit lays down three rules of conduct: (1) Respect every act of individual will determined by an end of social solidarity. (2) Abstain from any act that would be determined by an end contrary to social solidarity. (3) Coöperate in the realization of social solidarity.

Demogue applies the doctrine of solidarism to the apportionment of losses and division of gains among the members of a group. (Cf. *op cit.* Chap. XIX.) As it is practically impossible to determine the social debt of each individual, "the practical solution is to extend the principle of mutualization to all risks." This is at the basis of all schemes of insurance and has even been given as the explanation of tariff unions and of coöperative movements. The limited liability of stockholders as an inducement to invest capital may be considered a corollary of the same doctrine.

The Solidarism of the French school seems to differ from the sociological concept of the contemporary German school as the partnership concept differs from the corporate idea. Furthermore, Solidarism places a greater emphasis on the mutuality of the relations between society and the individual. Duguit would apparently assume that each individual is a joint and several creditor of society and that society is a joint and several creditor of everybody. Although this concept is difficult to visualize and well nigh impossible to present in graphical form, nevertheless in its emphasis on the interdependence of the individual and society it may be considered a real advance in philosophic thinking. Then, too, the stress laid by the French school upon the concept of society as a composite entity, immanent in the theological sense, not extrinsic to the individuals as in the corporate entity, seems to be a real advance in our thinking, the credit of which may well be given to the solidarists.

The MODERN LEGAL PHILOSOPHY SERIES has now reached a stage in which it may fairly be asked whether it has fulfilled the promise of its inception, and there seems to be no doubt but that the question should be

answered in the affirmative. The volumes already published give us a wealth of first hand information as to important movements in juristic thought throughout the world. They make possible a course in jurisprudence that will be something more than mere didactic lectures on the subject. We now have the necessary supplementary reading that can be placed in the hands of students by which an approach may be made to at least a "source book" if not a "case book" method of instruction. It is to be hoped that some competent hand may soon produce a single volume made up of selections from this series and elsewhere which will enable us to put into the hands of each student the material for a study at first hand of our sources of jurisprudence.

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JONES, J. WALTER. THE POSITION AND RIGHTS OF A BONA FIDE PURCHASER FOR VALUE OF GOODS IMPROPERLY OBTAINED. Cambridge: University Press. 1921. Pp. 128.

WINFIELD, PERCY HENRY. THE HISTORY OF CONSPIRACY AND ABUSE OF LEGAL PROCEDURE. Cambridge Studies in English Legal History. Cambridge: University Press. 1921. Pp. xxvii, 219.